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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 96-039

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. The SECTIONS of the rule need to be reordered. SECTION 17, which repeals ch. NR 158, should be the first SECTION of the rule order. The repeal of ch. NR 705 and the creation of ch. NR 706 should follow the repeal and recreation of Appendix A to ch. NR 700. [See s. 1.04 (1), Manual.]

b. In s. NR 706.01, the phrase “has been included, which” should be deleted. Also, in the Note, the notation “ss.” should be replaced by the notation “s.” Finally, in the Note, it appears that the reference to “s. 280.63 (a) to (3) and 280.63 (b)” should be replaced by a reference to “s. 280.63 (a) (1) to (3) and (b).” This citation should be reviewed.

c. In the Note to s. NR 706.03 (1), reference is made to the department’s interpretation of hazardous substance discharge notification requirements in s. 144.76 (2), Stats. A reference to the Administrative Code provision containing this interpretation should be included in the Note. If no such provision exists, the department should promulgate the interpretation as an administrative rule.

d. “Pesticide” is defined in s. 94.67 (25), Stats., rather than “pesticides,” as defined in s. NR 706.03 (6).

e. In s. NR 706.05 (1) (c) 3., the phrase “address (if appropriate),” should be replaced with the phrase “address, if appropriate.” Also, the word “a” should be inserted before the word “platted.”

f. In s. NR 706.07 (1) (b), the second sentence should be contained in a note. Also, in sub. (2) (a) 6., the phrase “have the option of reporting” should be replaced with the phrase “may report.”

g. In s. NR 706.07 (2) (b), the subdivisions need to be restructured. It is not necessary to require the report of a discharge in each subdivision when the requirement is contained in the introduction to par. (b). Consequently, subd. 1. can be rewritten to read:

1. The discharged hazardous substance is not cleaned up in compliance with the requirements of chs. NR 700 to 726 or the substance is discharged in a quantity that does not evaporate without causing an adverse impact to human health or safety or the environment before a timely cleanup can be accomplished.

The remaining subdivisions should be redrafted accordingly.

h. In s. NR 706.11 (2), the phrase “they obtain” should be replaced by the phrase “the owner or operator obtains.”

i. In s. NR 706.15 (3), can the phrase “closure assessment site check” be augmented by an appropriate cross-reference?

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. The Note after s. NR 706.05 (1) (b) would be more useful if it stated what is meant by “department guidance.”

b. Section NR 706.05 (1) (c) 11. could be clarified. Does this mean agencies that are on-scene only at the time notification is submitted or any agencies that were involved in the response?

c. The use of “their” should be avoided when using a singular subject. “The” should be substituted for “Their” in ss. NR 706.13 (4) and 706.17.

d. Section NR 706.15 (1) (a) requires certain action to be taken within 10 days, but the provision is not clear as to what event triggers the 10-day limit.